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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,528	07/25/2003	Thomas B. Gallagher	5939.00002	2918

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EXAMINER
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RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/627,528	GALLAGHER, THOMAS B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alex P. Rada	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed July 17, 2006 in which the applicant amends claims 1, 12, 18 and 24-25 and claims 1-25 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6, 9-12 and 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb (US Pub. 2003/0057648) in view of Mims (US 6,543,773).

Webb discloses the following:

One or more decks of playing cards (paragraph 0011), a gaming table having a layout depicting a player primary wager area (figure 1) and a player side wager area (items 12 and 14 of figure 1), a primary wager associated with the primary wager area (item 12 of figure 1), the primary wager dependent upon a value of a player's hand exceeding a value of a dealer's hand (summary), and a side wager associated with the side wager area (item 3 of figure 1), the side wager dependent upon a poker ranking defined by the player cards (summary) as recited in claim 1.

The one or more players may draw a maximum of five cards, in which the examiner interprets the traditional play of blackjack to be an equivalent to the one or more players may draw a maximum of five cards as recited in claims 2 and 19.

A player loses the primary wager if the player's cards exceed a maximum value, in which the examiner interprets the traditional play of blackjack to be an equivalent to a player losing the primary wager if the player's cards exceed a maximum value as recited in claims 3 and 20.

The poker ranking is defined by a player's first three cards, in which the examiner interprets the three card of item 14 of figure 1 to be an equivalent to the poker ranking is defined by a player's first three cards as recited in claims 5 and 22.

The winning poker rankings are selected from the group consisting of flushes, straights, straight flushes, and threes of a kind (paragraphs 0023-0024) as recited in claim 6.

A display device for displaying the value of each player hand and the dealer hand as recited in claim 9. The Webb reference inherently is capable of providing a display for displaying the values of the player and the dealer hands (paragraph 0042).

A means for visually indicating the value of each player hand and the dealer hand as recited in claim 11. The Webb reference inherently is capable of providing display to indicate the value of a player's and dealer hands (paragraph 0042).

Offering one or more players a primary wager and a side wager (figure 1), dealing one or more players and a dealer one or more playing cards (paragraphs 0008-0015), allowing the players to draw one or more cards, in which the examiner interprets the traditional rules of blackjack to be an equivalent to allowing the players to drawing one or more cards, allowing the dealer to draw cards until a value of the dealer's cards exceeds a pre-established minimum value, in which the examiner interprets the traditional rules of blackjack to be an equivalent to allowing a dealer to draw cards until a value of the dealer's cards exceeds a pre-established minimum value, resolving each player's side wager wherein the side wager is dependent upon a poker ranking defined by two or more of each player's cards (paragraphs 0008-0015), and resolving each player's primary wager wherein the primary wager is dependent upon a value of each player's hand exceeding a value of a dealers' hand, in which the examine interprets the traditional rules of blackjack to be an equivalent to resolving each player's primary wager wherein the primary wager is dependent upon a value of each player's hand exceeding a value of a dealers' hand (paragraphs 0008-0015) as recited in claim 12.

The poker ranking being defined by a player's first three cards (summary) as recited in claim 14.

The dealer calculating a value of each player's hand and the dealer's hand and causing the values to be electronically displayer as recited in claim 15. The Webb reference inherently is capable of providing a calculating

means to calculate and display the player's value on a display (paragraph 0042).

The value of each player's hand and the dealer's hand is input by the dealer via a dealer interface in communication with the display device as recited in claims 10 and 16. The Webb reference inherently is capable of having a device in communication with a display device (paragraph 0042).

The dealer calculating a value of each player's hand and the dealer's hand and causing the values to be identified on or near a table layout (figure 1) as recited in claim 17.

Means for accepting a player's primary wager and side wager, a processor in communication with a random number generator and display device (paragraph 0042), the processor for causing the display device to display randomly generated player cards and randomly generated dealer cards (paragraphs 0008-0015), selection means for the player to draw up to five cards which are each displayed on the display device, in which the examiner interprets the traditional rules of blackjack to be an equivalent to a selection means for the player to draw up to five cards, and the processor further for causing the display device to display dealer cards until a value of the dealer's cards exceeds a pre-established dealer minimum value, in which the examiner interprets the traditional rules of blackjack to be an equivalent to the displaying the dealer cards until a value of the cards exceeds a pre-established dealer minimum value, the processor further for resolving the side wager wherein the side wager is dependent upon a poker ranking defined

by the player's cards (paragraphs 0008-0015), the processor further resolving the primary wager wherein the primary wager is dependent upon a value of a player's hand exceeding a value of a dealer's hand, in which the examiner interprets the traditional rules of blackjack to be an equivalent to resolving the primary wager wherein the primary wager is dependent upon a value of a player's hand exceeding a value of the a dealer's hand (paragraphs 0008-0015) as recited in claim 18.

Webb is silent regarding dealing to the each player and dealer at least three cards and the poker ranking is defined by three or more player's cards.

Mims teaches a card game capable of being played at a conventional card table or electronically where each player and the dealer receive at least three cards and a side wager for determining the initially dealt three cards of the player equal a predetermined winning combination (figures 2-5, abstract and col. 1, lines 29-62 and col. 3, lines 12-38). By having a dealing three cards to each player and the dealer and a poker ranking being defined by a player's three cards, one of ordinary skill in the art would provide game players a alternative variation to the game of Blackjack or twenty-one.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Webb to include dealing to the each player and dealer at least three cards and the poker ranking is defined by three or more player's cards as taught by Mims to provide game players a alternative variation to the game of Blackjack or twenty-one.

3. Claims 4, 7-8, 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb (US Pub. 2003/0057648) in view of Mims (US 6,543,773) as applied to claims 1, 12 and 18 above, and further in view of Williams (US Pub. 2004/0092301).

Art Unit: 3714

4. Webb in view of Mims further disclose the following:

5. Webb in view of Mims disclose the claimed invention as discussed above but is silent regarding the following:

The maximum value is thirty-three as recited in claim 4.

The dealer must draw a card as long as the dealer's cards have a value of twenty-five or less as recited in claims 7 and 23.

The dealer may no longer draw cards if the dealer's cards have a value of twenty-six or more as recited in claim 8.

The pre-established minimum value is twenty-five as recited in claim 13.

William teaches a card game having the highest point value in the game is thirty-three and the minimum point total for the dealer's hand maybe set at any desired value (paragraphs 0018 and 0031). By having a card game where the highest point value in a game is thirty-three and the minimum point total for the dealer's hand maybe set at any desired value, one of ordinary skill in the art would provide a game that gives players the opportunity to wager and profit under a variety of scenarios that are dependent upon the outcome of a dealer hand.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Webb to further include a card game having the highest point value in the game is thirty-three and pre-established minimum point total value as taught by Williams to provide a game that gives players the opportunity to wager and profit under a variety of scenarios that are dependent upon the outcome of a dealer hand.

6. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb (US Pub. 2003/0057648) in view of Mims (US 6,543,773) and Williams (US Pub. 2004/0092301).



7. Webb discloses the following:

One or more decks of playing cards (paragraph 0011), a gaming table having a layout depicting a player primary wager area and a player side wager area (figure 1), a primary wager associated with the primary wager area (item 12 of figure 1), the primary wager dependent upon a value of a player's hand exceeding a value of a dealer's hand (summary), a side wager associated with the side wager area (item 14 of figure 1), the side wager dependent upon a poker ranking defined by two or more of the player cards (summary), and the primary wager being lost if either the value of the player's hand exceeds a predetermined value or the value of the dealer's hand exceeds the value of the player's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value, the primary wager being won if either the value of the player's hand exceeds the value of the dealer's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value or the value of the dealer's hand exceeds the predetermined value and the value of the player's hand does not exceed the predetermined value and the side wager being won if the poker ranking is a straight, flush, straight flush or three of a kind (summary) as recited in claim 24.

Offering a primary wager and a side wager (figure 1), dealing each of the players and a dealer playing cards, allowing the players to draw up to five total cards, allowing the dealer to draw cards until a value of the dealer's cards exceeds a pre-established minimum value, resolving each player's side

wager wherein the side wager is dependent upon a poker ranking defined by each player's first three cards, the side wager being won when the poker ranking is either a straight, a flush, a straight flush or three of a kind, and resolving the primary wager wherein the primary wager is lost if either the value of the player's hand exceeds a predetermined value or the value of the dealer's hand exceeds the value of the player's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value, the primary wager being won if either the value of the player's hand exceeds the value of the dealer's hand with neither the value of the player's hand or the value of the dealer's hand exceeding the predetermined value or the value of the dealer's hand exceeds the predetermined value and the value of the player's hand does not exceed the predetermined value as recited in claim 25.

Webb is silent regarding dealing to the each player and dealer at least three cards and the poker ranking is defined by three or more player's cards.

Mims teaches a card game capable of being played at a conventional card table or electronically where each player and the dealer receive at least three cards and a side wager for determining the initially dealt three cards of the player equal a predetermined winning combination (figures 2-5, abstract and col. 1, lines 29-62 and col. 3, lines 12-38). By having a dealing three cards to each player and the dealer and a poker ranking being defined by a player's three cards, one of ordinary skill in the art would provide game players a alternative variation to the game of Blackjack or twenty-one.

Art Unit: 3714

Webb in view of Mims disclose the claimed invention as discussed above but is silent regarding the primary wager of a player being lost if the player's hand exceeds thirty-three and the primary wager being won if the value of the player's hand exceeds the value of the dealer's hand neither the value of the player's hand or the value of the dealer's hand exceeding thirty-three or the value of the dealer's hand exceeds thirty-three and the value of the player's hand does not exceed thirty-three as recited in claims 24 and 25.

William teaches a card game having the highest point value in the game is thirty-three and the minimum point total for the dealer's hand maybe set at any desired value (paragraphs 0018 and 0031). By having a card game where the highest point value in a game is thirty-three and the minimum point total for the dealer's hand maybe set at any desired value, one of ordinary skill in the art would provide a game that gives players the opportunity to wager and profit under a variety of scenarios that are dependent upon the outcome of a dealer hand.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Webb to include dealing to the each player and dealer at least three cards and the poker ranking is defined by three or more player's cards and a card game having the highest point value in the game is thirty-three and pre-established minimum point total value as taught by Mims and Williams to provide game players an alternative variation to the game of Blackjack or twenty-one and a game that gives players the opportunity to wager and profit under a variety of scenarios that are dependent upon the outcome of a dealer hand as taught.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3714

***Conclusion***

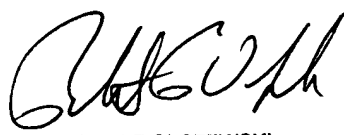
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
APR

 11/7/07  
ROBERT OLSZEWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700